

AN ACT

relating to the regulation of the towing, booting, and storage of vehicles.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2303.1511, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) This section does not apply to a vehicle received as a result of an incident management tow requested by a law enforcement agency unless the law enforcement agency requests a report of incident management tows within the jurisdiction of the agency. In this subsection, "incident management tow" has the meaning assigned by Section 2308.002.

SECTION 2. Section 2303.154(a), Occupations Code, is amended to read as follows:

(a) If a vehicle is not claimed by a person permitted to claim the vehicle or ~~[is not taken into custody by]~~ a law enforcement agency has not taken an action in response to a notice under Section 683.031(c) [Chapter 683], Transportation Code, before the 15th ~~[41st]~~ day after the date notice is mailed or published under Section 2303.151 or 2303.152, the operator of the vehicle storage facility shall send a second notice to the registered owner and the primary lienholder of the vehicle.

SECTION 3. Section 2303.160(c), Occupations Code, is amended to read as follows:

(c) Subsection (b) does not require a vehicle storage facility to release a vehicle to the owner or operator of the vehicle if the owner or operator of the vehicle does not:

(1) pay the charges for services regulated under this chapter or Chapter 2308, including charges for an incident management tow, as defined by Section 2308.002 [~~associated with delivery or storage of the vehicle~~]; and

(2) present valid photo identification issued by this state, another state, [~~or~~] a federal agency, or a foreign government.

SECTION 4. Sections 2308.002(5-a) and (7), Occupations Code, are amended to read as follows:

(5-a) "Incident management tow" means any tow of a vehicle in which the tow truck is summoned to the scene [~~because~~] of a traffic accident or to an incident, including the removal of a vehicle, commercial cargo, and commercial debris from an accident or incident scene.

(7) "Parking facility" means public or private property used, wholly or partly, for restricted or paid vehicle parking. The term includes:

(A) a restricted space on a portion of an otherwise unrestricted parking facility; and

(B) a commercial parking lot, a parking garage, and a parking area serving or adjacent to a business, church, school, home that charges a fee for parking, apartment complex, property governed by a property owners' association, or government-owned property leased to a private person, including:

1 (i) a portion of the right-of-way of a
2 public roadway that is leased by a governmental entity to the
3 parking facility owner; and

4 (ii) the area between the facility's
5 property line abutting a county or municipal public roadway and the
6 center line of the roadway's drainage way or the curb of the
7 roadway, whichever is farther from the facility's property line.

8 SECTION 5. Section 2308.057, Occupations Code, is amended
9 to read as follows:

10 Sec. 2308.057. RULES. (a) The commission shall adopt rules
11 for permitting tow trucks and licensing towing operators, towing
12 companies, booting companies, and boot operators. The commission
13 may adopt different rules applicable to each type of permit or
14 license.

15 (a-1) The commission shall adopt [~~including~~] rules for
16 denial of applications and permits if the applicant, a partner,
17 principal, officer, or general manager of the applicant, or other
18 license or permit holder has:

19 (1) a criminal conviction, or has pleaded guilty or
20 nolo contendere to an offense, before the date of the application,
21 for:

22 (A) a felony; or

23 (B) a misdemeanor punishable by confinement in
24 jail or by a fine in an amount that exceeds \$500;

25 (2) violated an order of the commission or executive
26 director, including an order for sanctions or administrative
27 penalties;

(3) failed to submit a license or permit bond in an amount established by the commission;

(4) knowingly submitted false or incomplete information on the application; or

(5) filed an application to permit a tow truck previously permitted by a license or permit holder.

(b) The commission by rule shall adopt:

(1) standards of conduct for license and permit holders under this chapter; and

(2) requirements for a consent tow, private property tow, and incident management tow.

SECTION 6. Section 2308.159(c), Occupations Code, is amended to read as follows:

(c) A license holder may renew a license issued under this chapter by:

(1) submitting an application on a form prescribed by the executive director;

(2) submitting evidence demonstrating compliance with the requirements for the license type as required by this chapter or commission rule;

(3) paying a renewal fee; and

(4) ~~[(2)]~~ completing continuing education as required by Section 2308.157.

SECTION 7. Subchapter E, Chapter 2308, Occupations Code, is amended by adding Section 2308.2065 to read as follows:

Sec. 2308.2065. FEES FOR NONCONSENT TOWS; REFUNDS. (a) A license or permit holder may not charge a fee for a nonconsent tow

1 that is greater than:

2 (1) the fee for a nonconsent tow established under
3 Section 2308.0575; or

4 (2) a fee for a nonconsent tow authorized by a
5 political subdivision.

6 (b) A license or permit holder may not charge a fee for a
7 service related to a nonconsent tow that is not included in the list
8 of fees established:

9 (1) under Section 2308.0575; or

10 (2) by a political subdivision.

11 (c) The department may require a license or permit holder to
12 refund to a vehicle owner or operator the:

13 (1) amount charged to the owner or operator in excess
14 of the amounts established by commission rule or by a political
15 subdivision; or

16 (2) total amount of the charges for a service not
17 listed in the amounts established by commission rule or by a
18 political subdivision.

19 SECTION 8. The heading to Section 2308.255, Occupations
20 Code, is amended to read as follows:

21 Sec. 2308.255. TOWING COMPANY'S OR BOOT OPERATOR'S
22 AUTHORITY TO REMOVE AND STORE OR BOOT UNAUTHORIZED VEHICLE.

23 SECTION 9. Sections 2308.255(a) and (d), Occupations Code,
24 are amended to read as follows:

25 (a) A towing company that is insured as provided by
26 Subsection (c) may, without the consent of an owner or operator of
27 an unauthorized vehicle, remove and store the vehicle at a vehicle

1 storage facility at the expense of the owner or operator of the
2 vehicle if:

3 (1) the towing company has received written
4 verification from the parking facility owner that:

5 (A) the parking facility owner has installed the
6 signs required by Section 2308.252(a)(1); or

7 (B) the owner or operator received notice under
8 Section 2308.252(a)(2) or the parking facility owner gave notice
9 complying with Section 2308.252(a)(3); or

10 (2) on request the parking facility owner provides to
11 the owner or operator of the vehicle information on the name of the
12 towing company and vehicle storage facility that will be used to
13 remove and store the vehicle and the vehicle is:

14 (A) left in violation of Section 2308.251; ~~or~~

15 (B) in or obstructing a portion of a paved
16 driveway; or

17 (C) on a ~~abutting~~ public roadway used for
18 entering or exiting the facility and the removal is approved by a
19 peace officer.

20 (d) A towing company may remove and store a vehicle under
21 Subsection (a) and a boot operator may boot a vehicle under Section
22 2308.257 only if the parking facility owner:

23 (1) requests that the towing company remove and store
24 or that the boot operator boot the specific vehicle; or

25 (2) has a standing written agreement with the towing
26 company or boot operator to enforce parking restrictions in the
27 parking facility ~~[from which the vehicle will be removed]~~.

SECTION 10. Section 2308.257, Occupations Code, as added by Chapter 757 (S.B. 702), Acts of the 81st Legislature, Regular Session, 2009, is redesignated as Section 2308.2555, Occupations Code, to read as follows:

Sec. 2308.2555 [~~2308.257~~]. REMOVAL OF CERTAIN UNAUTHORIZED VEHICLES IN RURAL AREAS. (a) This section applies only to an abandoned vehicle that has damaged a fence on private property in a rural area.

(b) A law enforcement agency directing a towing company or tow operator to remove an abandoned vehicle that is located on private property shall provide the towing company or tow operator with the name and telephone number of the property owner or the owner's agent if the owner or agent has provided the information to the law enforcement agency.

(c) A towing company or tow operator provided with information under Subsection (b) shall contact the property owner or the owner's agent before entering private property to tow a vehicle described by Subsection (a).

SECTION 11. Subchapter F, Chapter 2308, Occupations Code, is amended by adding Section 2308.2565 to read as follows:

Sec. 2308.2565. VEHICLE STORAGE FACILITY DUTY TO REPORT AFTER ACCEPTING UNAUTHORIZED VEHICLE. (a) Except for an incident management tow requested by a law enforcement agency, a vehicle storage facility accepting a vehicle that is towed under this chapter shall within two hours after receiving the vehicle report to the police department of the municipality from which the vehicle was towed or, if the vehicle was towed from a location that is not in

1 a municipality with a police department, to the sheriff of the
2 county from which the vehicle was towed:

3 (1) a general description of the vehicle;

4 (2) the state and number of the vehicle's license
5 plate, if any;

6 (3) the vehicle identification number of the vehicle,
7 if it can be ascertained;

8 (4) the location from which the vehicle was towed; and

9 (5) the name and location of the vehicle storage
10 facility in which the vehicle is being stored.

11 (b) A law enforcement agency may request a vehicle storage
12 facility to provide a report, in a manner prescribed by the law
13 enforcement agency, of incident management tows within the
14 jurisdiction of the agency. A vehicle storage facility must provide
15 the report not later than 48 hours after the time the facility
16 receives the request.

17 SECTION 12. Section 2308.301(b), Occupations Code, is
18 amended to read as follows:

19 (b) Except as provided by Section 2308.305, an unauthorized
20 vehicle may be towed under Section 2308.252(a)(1) or booted under
21 Section 2308.257 only if each sign prohibiting unauthorized
22 vehicles:

23 (1) is made of weather-resistant material;

24 (2) is at least 18 inches wide and 24 inches tall;

25 (3) contains the international symbol for towing
26 vehicles;

27 (4) contains a statement describing who may park in

1 the parking facility and prohibiting all others;

2 (5) bears the words, as applicable:

3 (A) "Unauthorized Vehicles Will Be Towed or
4 Booted at Owner's or Operator's Expense";

5 (B) "Unauthorized Vehicles Will Be Towed at
6 Owner's or Operator's Expense"; or

7 (C) "Unauthorized Vehicles Will Be Booted at
8 Owner's or Operator's Expense";

9 (6) contains a statement of the days and hours of
10 towing and booting enforcement; and

11 (7) contains a number, including the area code, of a
12 telephone that is answered 24 hours a day to enable an owner or
13 operator of a vehicle to locate a towed vehicle or to arrange for
14 removal of a boot from a vehicle.

15 SECTION 13. Section 2308.302(c), Occupations Code, is
16 amended to read as follows:

17 (c) The portion of the sign immediately below the
18 international towing symbol must:

19 (1) ~~[contain the words "Towing And Booting Enforced"]~~
20 in lettering at least two inches in height, contain the words, as
21 applicable:

22 (A) "Towing and Booting Enforced";

23 (B) "Towing Enforced"; or

24 (C) "Booting Enforced"; and

25 (2) ~~[The lettering on this portion of the sign~~
26 ~~must]~~ consist of white letters on a bright red background.

27 SECTION 14. Section 2308.401, Occupations Code, is amended

1 by adding Subsection (c) to read as follows:

2 (c) This section does not apply to a sign required under
3 Section 2308.301 provided by a towing or booting company to a
4 parking facility owner.

5 SECTION 15. Section 2308.402, Occupations Code, is amended
6 by adding Subsection (c) to read as follows:

7 (c) This section does not apply to a sign required under
8 Section 2308.301 provided by a towing or booting company to a
9 parking facility owner.

10 SECTION 16. Sections 2308.458(b), (c), and (e), Occupations
11 Code, are amended to read as follows:

12 (b) The court shall notify the person who requested the
13 hearing for a towed vehicle, the parking facility owner or law
14 enforcement agency that authorized the removal of the vehicle, the
15 towing company, and the vehicle storage facility in which the
16 vehicle was placed of the date, time, and place of the hearing in a
17 manner provided by Rule 21a, Texas Rules of Civil Procedure. The
18 notice of the hearing to the towing company and the parking facility
19 owner or law enforcement agency that authorized the removal of the
20 vehicle must include a copy of the request for hearing. Notice to
21 the law enforcement agency that authorized the removal of the
22 vehicle is sufficient as notice to the political subdivision in
23 which the law enforcement agency is located.

24 (c) The issues in a hearing regarding a towed vehicle under
25 this chapter are:

26 (1) whether probable cause existed for the removal and
27 placement of the vehicle;

1 (2) whether a towing charge imposed or collected in
2 connection with the removal or placement of the vehicle was greater
3 than the amount authorized by the political subdivision under
4 Section 2308.201 or 2308.202;

5 (3) whether a towing charge imposed or collected in
6 connection with the removal or placement of the vehicle was greater
7 than the amount authorized under Section 2308.203 [~~or 2308.204~~]; or

8 (4) whether a towing charge imposed or collected in
9 connection with the removal or placement of the vehicle was greater
10 than the amount authorized [~~filed with the department~~] under
11 Section 2308.0575 [~~2308.206~~].

12 (e) The court may award:

13 (1) court costs and attorney's fees to the prevailing
14 party;

15 (2) the reasonable cost of photographs submitted under
16 Section 2308.456(b)(8) to a vehicle owner or operator who is the
17 prevailing party;

18 (3) an amount equal to the amount that the towing
19 charge or booting removal charge and associated parking fees
20 exceeded fees regulated by a political subdivision or authorized by
21 this code or by Chapter 2303; and

22 (4) reimbursement of fees paid for vehicle towing,
23 storage, or removal of a boot.

24 SECTION 17. Section 2308.504(b), Occupations Code, is
25 amended to read as follows:

26 (b) An offense under this section is a Class C misdemeanor.
27 An offense under this section is enforceable by law enforcement.

SECTION 18. Section 2308.505(b), Occupations Code, is amended to read as follows:

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$200 or more than \$1,000 per violation. An offense under this section is enforceable by law enforcement.

SECTION 19. (a) The following sections of the Occupations Code are repealed:

- (1) Section 2308.204;
- (2) Section 2308.206; and
- (3) Section 2308.404(d).

(b) Section 2308.256(a), Occupations Code, as amended by Chapter 1310 (H.B. 2571), Acts of the 81st Legislature, Regular Session, 2009, is repealed to conform to the repeal of Section 2308.256, Occupations Code, by Chapter 757 (S.B. 702), Acts of the 81st Legislature, Regular Session, 2009.

SECTION 20. (a) The change in law made by this Act to Section 2308.159, Occupations Code, applies only to an application for renewal of a license made on or after September 1, 2011.

(b) An application for renewal of a license made before September 1, 2011, is governed by the law as it existed immediately before September 1, 2011, and that law is continued in effect for that purpose.

(c) The Texas Commission of Licensing and Regulation shall adopt rules to implement the changes in law made by this Act to Chapters 2303 and 2308, Occupations Code, not later than January 1, 2012.

1 (d) The changes in law made by Section 2303.154, Occupations
2 Code, as amended by this Act, apply to a vehicle accepted by a
3 vehicle storage facility on or after the effective date of this Act.
4 A vehicle accepted before the effective date of this Act is governed
5 by the law in effect at the time the vehicle was accepted, and the
6 former law is continued in effect for that purpose..

7 SECTION 21. To the extent of any conflict, this Act prevails
8 over another Act of the 82nd Legislature, Regular Session, 2011,
9 relating to nonsubstantive additions to and corrections in enacted
10 codes.

11 SECTION 22. This Act takes effect September 1, 2011.

H.B. No. 3510

David Dewhurst

President of the Senate

Joe Straus

Speaker of the House

I certify that H.B. No. 3510 was passed by the House on April 21, 2011, by the following vote: Yeas 147, Nays 1, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3510 on May 21, 2011, by the following vote: Yeas 143, Nays 0, 2 present, not voting.

Robert Haney

Chief Clerk of the House

I certify that H.B. No. 3510 was passed by the Senate, with amendments, on May 18, 2011, by the following vote: Yeas 31, Nays 0.

Letsy Saw

Secretary of the Senate

APPROVED: 17 JUN '11

Date

RICK PERRY

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4:00 PM O'CLOCK

JUN 17 2011

Hope M. Rahn

Secretary of State